

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CONCEPCION HERNANDEZ and MARIA
HERNANDEZ, *individually and on behalf of
others similarly situated,*

17 CV 887 (JFB) (GRB)

Plaintiffs,

-against-

MARCOFAI CORP. (d/b/a HICKSVILLE
FLOWERS & FRUITERS), MARTIN
LEBEDIN, CORA B. LEBEDIN (a/k/a
MARIA CORAZON), MARTY LEVIN,
JOHN MAROUDAS and FAITH DOE,

Defendants.

X

ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIM

Counter-Defendants Concepcion Hernandez and Maria Hernandez (“Counter-Defendants”), by their attorneys Michael Faillace & Associates, P.C., hereby answer the counterclaim of Counter-Claimants MARCOFAI CORP. (d/b/a HICKSVILLE FLOWERS & FRUITERS), MARTIN LEBEDIN and CORA B. LEBEDIN (the “Counterclaim”), upon information and belief as follows:

1. Deny the allegations contained in paragraph 129 of the Counterclaim.
2. Deny each and every allegation set forth in the WHEREFORE paragraph, and specifically deny that Counter-Claimants are entitled to the relief stated therein or any other relief against Counter-Defendants.
3. Deny each and every other allegation contained in the Counterclaim not expressly admitted in this Answer.

COUNTER-DEFENDANTS' AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Counter-Claimants' claims, in whole or in part, fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Counter-Claimants' claims are barred, in whole or in part, based on the applicable statutes of limitations.

THIRD AFFIRMATIVE DEFENSE

The Counterclaim is barred, in whole or in part, because Counter-Claimants lack standing to pursue some or all of the claims asserted and relief sought in the Complaint.

FOURTH AFFIRMATIVE DEFENSE

The Court lacks subject matter jurisdiction over the Counterclaims.

FIFTH AFFIRMATIVE DEFENSE

The allegations set forth in the Counterclaim against Counter-Defendants are false, frivolous and groundless and the Counter-Defendants reserve the right to seek sanctions, attorneys' fees and costs pursuant to Fed. R. Civ. Proc. 11 and any other applicable statute.

RESERVATION OF RIGHTS

Counter-Defendants give notice that they intend to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend this Answer to assert such additional defenses.

Dated: New York, New York
August 10, 2017

/s/ Sara J. Isaacson
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